

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

STEVEN MALDONADO,

Petitioner,

vs.

No. 20-cv-842-KWR-GJF

SIXTH JUDICIAL DISTRICT COURT,

Respondent.

MEMORANDUM OPINION AND ORDER

This matter is before the Court on Steven Maldonado's *Pro Se* Petition for Writ of Mandamus (Doc. 1). The Petition relates to his state convictions for criminal sexual penetration of a child, Case No. D-608-CR-2013-0181. Petitioner alleges New Mexico's Sixth Judicial District Court refuses to compel discovery and/or send him records from that case. Specifically, Petitioner seeks laboratory reports and video interviews to use in his federal 28 U.S.C. § 2254 action. He filed that action on May 26, 2020, and it is pending before the Hon. Martha Vazquez. *See Maldonado v. Martinez*, No. 20-cv-507 MV-GJF. In the instant matter, Petitioner asks the Court to issue a writ of mandamus requiring the State Court to turn over the requested documents.

Mandamus relief is governed by 28 U.S.C. § 1361. That statute provides: "[t]he district courts shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff." 28 U.S.C. § 1361. By its terms, § 1361 only permits Federal Courts to compel action by a federal official. "The statute does not allow relief against state officials or state agencies." *Mathieu v. Brown*, 780 Fed. App'x 665, 666 (10th Cir. 2019). *See also Amisub (PSL), Inc. v. Colo. Dep't of Soc. Servs.*, 879 F.2d 789, 790 n. 2 (10th Cir. 1989) (Section 1361's "jurisdictional grant ... does

not apply to the state defendants”). Accordingly, the Court lacks jurisdiction in this proceeding to compel the State Court to produce documents. *See United States v. Tinajero-Porras*, 304 Fed. App’x 754, 757 (10th Cir. 2008) (Federal Courts lack jurisdiction to compel production of documents from a respondent who is “not an officer or employee of the United States” under § 1361).

The Court will dismiss the Petition (Doc. 1) without prejudice for lack of jurisdiction. Petitioner may refile his request for documents in his pending § 2254 case, No. 20-cv-507 MV-GJF. If that § 2254 petition survives initial screening - meaning there is not a clear bar to relief such as timeliness or exhaustion - the Court will order Respondents to file an answer along with copies of all relevant state court documents. Habeas Corpus Rule 6 also permits Petitioner to request discovery in Case No. 20-cv-507 MV-GJF, if additional evidence is necessary to support the § 2254 claims.

IT IS ORDERED that Steven Maldonado’s *Pro Se* Petition for Writ of Mandamus (**Doc. 1**) is **DISMISSED WITHOUT PREJUDICE** for lack of jurisdiction; and the Court will enter a separate judgment closing the civil mandamus case.



KEA W. RIGGS
UNITED STATES DISTRICT JUDGE